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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/314,969	05/20/1999	JENNY LIU FISCHER	50100-823	5861
20277	7590	08/16/2005	EXAMINER	
MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096			EMDADI, KAMRAN	
			ART UNIT	PAPER NUMBER
			2667	

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/314,969	FISCHER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kamran Emdadi	2667	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 7-12-2005 have been fully considered but they are not persuasive.

The Applicant has argued that Lau does not sufficiently disclose all the claim limitations recited in independent claims 1, 8 and 12. The Examiner disagrees and submits that the ports, memory, transmit queue, output terminal and data path are all disclosed in Lau (see column 1, lines 25-42). Further, the Applicant argues that Lau is not a bit bucket and that no gate is present. The Examiner agrees that Lau does not recite a bit bucket in the cited teachings, however, the claims also do not discuss a bit bucket. With regard to the gate, Lau does disclose AND gates used to allow and block certain portions of the transmitted data (see figure 5).

Accordingly, the Applicant has failed to persuade the Examiner's current rejections, which are hereby maintained in this action made final.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6, 8 and 10-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Lau et al. (U.S. Patent No. 6,463,032).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Lau teaches a network switching system comprising receive and transmit ports, a memory to store received data packets and a queue to store the received data packets (see column 1, lines 29-42 of Lau). In addition Lau discloses a plurality of output queues 58 for outputting data, and a data path between the output queues 58 for transmitting the data corresponding to the MAC port terminal to a FIFO of an identified output port (see column 5, lines 7- of Lau).

Regarding claims 2, 8 and 10-12 in addition to the above noted discussion with regard to claim 1, the blocking mechanism described in the instant application is also disclosed in Lau. The AND gate in Lau is used to provide overflow handling and is used by arbitrators 204 and 206 for performing round-robin scheduling and by the overflow request generator 202 for resolving Rules Queue (RQ) overflow requests. The overflow mechanism transfers at least a portion of a data block in an overflow state to an overflow register blocking the transfer of data packets (see column 11, lines 30-35).

Regarding claims 3, 6 and 13-15, Lau discloses an AND gate 208, where a first port receives a RQ ready signal or data signal and a second port that receives an RQ grant signal or enable signal.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5, 7, 9 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lau in view of Holden (U.S. Patent No. 6,151,301).

Lau teaches a network switching system with an overflow bypass with all of the above described features, however, Lau fails to teach: sectioning data packets into nibbles and assembling a data packet, assembling a data frame and transferring the data frame to a gate, and a plurality of multiplexers. Holden teaches a data multiplexing and switching architecture that includes these features. For example, figure 5 of Holden illustrates a block diagram structure of a switch that includes a mechanism for receiving queued data and separating the data into nibbles and capable of storing an entire cell of 118 nibbles (see column 6, lines 14-18 of Holden). Further, a plurality of multiplexers 112, are used to connect the input data buses to the cell memories that store the cells of data (see column 6, lines 20-24 of Holden).

The motivation to combine these two references is evident in the background portions of their respective specifications. For instance, Lau discloses the need for data loss prevention via a bypass mechanism for overflowed data (see column 1, lines 20-23 of Lau). Similarly, Holden discloses a need for a switching architecture that uses available memory for queueing and buffering data packets without slowing network operations. Both inventions recite improvements for the excessive flow of data packets, thus both inventions share a common need for improved data switching techniques.

Therefore, in view of the above comments, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined these references to arrive at the instant invention as recited in claims 4-5, 7, 9 and 16-17.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamran Emdadi whose telephone number is 571-272-6047. The examiner can normally be reached M-F between the hours of 7am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kamran Emdadi

August 11, 2005

  
CHI PHAM  
SUPERVISORY PATENT EXAMINE  
TECHNOLOGY CENTER 2667 8/12/05